30 p.

MONTANA LEGISLATIVE HISTORY

Chapter 532 1985

Bill H 517 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Judiciary		
Hearing Date(s)	2-12	Out C	Hearing Date(s)	3-19	C
		C		3-23	Out C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/05	REFERRED TO LOCAL GOVERNMENT		
3/21	HEARING		
3/25	COMMITTEE REPORT-BILL CONCURRED		
3/27	2ND READING CONCURRED	50	0
3/29	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
4/04	SIGNED BY SPEAKER		
4/04	SIGNED BY PRESIDENT		
4/04	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 378 EFFECTIVE DATE: 10/01/85		

HB 517 INTRODUCED BY HANSEN, KEENAN, ET AL.
DISTRICT COURT CLERK MAY CHARGE $5 CHILD SUPPORT HANDLING FEE

1/26	INTRODUCED		
1/26	REFERRED TO LOCAL GOVERNMENT		
2/12	HEARING		
2/13	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/16	2ND READING PASS	95	2
2/18	3RD READING PASS	95	3
	TRANSMITTED TO SENATE		
2/19	REFERRED TO JUDICIARY		
3/19	HEARING		
3/25	COMM REPORT-BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	50	0
3/29	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	93	0
4/08	ON MOTION RULES SUSPENDED		
	PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	95	0
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/15	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 532 EFFECTIVE DATE: 10/01/85		

HB 518 INTRODUCED BY DRISCOLL, PAVLOVICH, ET AL.
EXCLUDE WORKER'S COMP. BENEFITS & HEALTH INSURANCE PREMIUMS FROM INCOME TAX

1/28	INTRODUCED		
1/28	REFERRED TO TAXATION		
1/29	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/07	HEARING		
2/07	COMMITTEE REPORT-BILL DO PASS		
2/08	2ND READING PASS	97	1
2/11	3RD READING PASS	99	0
	TRANSMITTED TO SENATE		
2/12	REFERRED TO TAXATION		
3/20	HEARING		

2

HOUSE BILL NO. 517

INTRODUCED BY HANSEN, KEENAN, KADAS, J. BROWN, SPAETH, DARKO

IN THE HOUSE

January 26, 1985	Introduced and referred to Committee on Local Government.
February 13, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 18, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

February 19, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 27, 1985	Second reading, concurred in.
March 29, 1985	Third reading, concurred in. Ayes, 47; Noes, 2.
	Returned to House with amendments.

IN THE HOUSE

March 29, 1985	Received from Senate.

April 8, 1985

Second reading, amendments concurred in.

On motion, rules suspended and bill placed on third reading this day.

Third reading, amendments concurred in.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 517

INTRODUCED BY Kaska Keenan J. Brown Spaeth Parker

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CLERK OF THE DISTRICT COURT TO CHARGE A $5 HANDLING FEE FOR EACH CHILD SUPPORT PAYMENT PROCESSED; AMENDING SECTIONS 40-4-206 AND 40-5-125, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-206, MCA, is amended to read:

"40-4-206. Payment of maintenance or support to court -- handling fee of clerk. (1) Upon its own motion or upon motion of either party, the court may order at any time that maintenance or support payments be made to the clerk of the district court as trustee for remittance to the person entitled to receive the payments.

(2) The clerk of the district court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order. The clerk may charge the payor a handling fee of $5 a payment, which must be in addition to the payment. Any handling fee collected by the clerk under this subsection must be paid into the county general fund.

(3) The parties affected by the order shall inform the clerk of the district court of any change of address or of other condition that may affect the administration of the order."

Section 2. Section 40-5-125, MCA, is amended to read:

"40-5-125. Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this part shall require that payments be made to the clerk of the court of the responding state. The clerk may charge a handling fee in accordance with 40-4-206. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order."

-End-

INTRODUCED BILL
HB 517

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

49th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILLS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 517	1-28-85	2-12-85	2-12-85			2-12-85			
HB 483	1-25-85	2-14-85	2-14-85			2-14-85			
HB 484	1-25-85	2-14-85	2-14-85			2-14-85			
HB 519	1-28-85	2-12-85	2-12-85	2-12-85					
HB 545	1-29-85	2-14-85	2-14-85		2-14-85				
HB 546	1-29-85	2-16-85	TABLED 2-16-85						
HB 558	1-30-85	2-16-85	2-16-85	2-16-85					
HB 564	1-30-85	2-16-85	2-16-85	2-16-85					
HB 569	1-30-85	2-16-85	2-16-85			2-16-85			
HB 580	1-31-85	2-12-85	2-12-85	2-12-85					
HB 582	1-31-85	2-5-85	2-5-85			2-5-85			
HB 612	2-1-85	2-7-85				2-7-85			
HB 614	2-1-85	2-9-85	2-9-85			2-9-85			
HB 624	2-1-85	2-9-85	TABLED 2-9-85						
HB 625	2-1-85	2-7-85	2-7-85	2-7-85					
HB 616	2-2-85	2-12-85	TABLED 2-14-85			2-26-85	Reconsidered		

2-21-85 - Remainder to take off table - Motion failed

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 12, 1985

The meeting of the Local Government Committee was called to order by Chairman Paula Darko on February 12, 1985 at 3:20 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present; however, Rep. Wallin and Rep. Brown were late in arriving.

Chairman Darko told the committee we have nine bills so our time is short, and she would appreciate everyone's cooperation in making their testimony short. Rep. Kadas took over the chair for Chairman Darko when she presented her bill, as Vice Chairman Wallin was not present.

CONSIDERATION OF HOUSE BILL NO. 580: Rep. Paula Darko, District 2, Libby, appeared before the committee as sponsor of this bill, which authorizes a county to fund search and rescue units established or recognized by the county after approval by a vote of the people of the county. She said this bill was drafted at the request of the county search and rescue in Libby. It provides a 1 mill maximum levy that will be voted on by the people. It is for the good of all people and part of the reason for the bill. It is becoming hard for fund raising when there is not a lot of money available.

PROPONENTS: Daryl Anderson, Libby, stated that the purpose of the bill is the cost of operating their search and rescue. They ask for donations but people are tired of coming up with the money so they are asking for a mill levy to help with the financial problems. The search and rescue people are all volunteers and they are low priority in the county. However, to maintain the proper search and rescue operation, you have to have proper equipment, which we don't have, and we get very little funding from the county. Most of our equipment is from donations. In the last couple of years, they have had more and more search and rescue missions in the mountains and they do not have the proper equipment for these missions. The purpose of this bill is to help with a little more financing.

Jim Rizza, Jefferson County Search and Rescue, from Clancy, stated there are many reasons for supporting HB 580. By state law the county sheriff is responsible for search and rescues. The cost for outside assistance is outstanding. During the search for a little girl from their county, the total cost exceeded $50,000. These figures could have been drastically reduced if they had had a search and rescue operation in their county. It costs $2,400 for a radio, and they would need six of them to carry out their mission. That is just

one small but essential item. Their unit has had to spend a lot of time in fund raising when they should be spending it on training. He finished by saying they hope to convince the committee to support HB 580 so they could get more funding.

There were no opponents to HB 580.

In closing, Rep. Darko stated the things to consider are that these organizations cost a lot of money to operate, and it is all volunteers, so because of that we should not have to spend a lot of time. She stated she would appreciate a Do Pass from the committee.

DISCUSSION OF HOUSE BILL NO. 580: Rep. Pistoria stated that if you were going to have an election, elections sometimes cost more than the levy. Rep. Darko replied there would not be a special election for this purpose.

CONSIDERATION OF HOUSE BILL NO. 517: Rep. Stella Jean Hansen from House District 57, sponsor of this bill, appeared before the committee to present the bill. She explained this bill would permit the clerk of the district court to charge a $5 handling fee for each child support payment processed. Page 2 asks that that payment be allowed to be added to the support payment.

PROPONENTS: Gordon Morris, Montana Association of Counties, said he is pleased to appear in favor of Rep. Hansen's bill. This is a very simple bill and it does propose revenue to the district court, which is one of the most critical places for funding. He handed out Exhibit 1 which shows child support handling fees for 15 counties. This is a bill that will add, for administrative purposes, a very nominal fee to help the court administer to the many payments made for child support in Montana. He then passed out another handout (Exhibit 2). House Bill 125 has come through third reading, and the amendment which they are proposing in Exhibit 2 coincides with HB 125. The revenue derived from child support payments would be receipted to the district court fund if such a fund exists, and to the general fund if it does not. He asked for a Do Pass.

Howard Schwartz, representing Missoula County, also appeared in support of this bill. He would like to second what Gordon Morris said. In their county they were kind of uneasy about it. He said the bill would be easy to put into the process if they had a computer. If this bill passes they would have the revenue for a computer and they would be able to modernize and put it into practice. It will be a godsend, according to Mr. Schwartz. They are also in support of Mr. Morris' amendment. This is a fair and just fee since the counties are acting as escrow agents.

Greg Jackson of the Urban Coalition, stated the impact is more evident in large counties as far as dividing support payments. As far as funding, they go on record in support of HB 517.

There were no opponents to HB 517.

In closing, Rep. Hansen wanted to remind the committee that on lines 10 and 11, it is permissive, not mandatory.

DISCUSSION OF HOUSE BILL NO. 517: Rep. Sands asked Gordon Morris if he really thinks that $5 is required, that wouldn't $3 or $3.50 be enough to cover it. Mr. Morris said the question should be addressed to Rep. Hansen, who answered by saying that $5 is not a magic figure. It takes 7-10 minutes to handle each case. The process involves considerable staff time.

Rep. Sands then asked if right now some counties don't deduct a certain percentage of the child payments to go to the county for administration, and Gordon Morris replied that right now he didn't think there is any such law.

CONSIDERATION OF HOUSE BILL NO. 727: Rep. Stella Jean Hansen, District 57, presented this bill to the committee. This bill expands the rulemaking authority of local boards of health to ensure maintenance of sewer systems not controlled by the department. In Missoula County, two systems have experienced problems with sewers, as well as other areas of the state. There are some proposed changes in 50-2-124, where the fine for violation will go from $50 to $500.

PROPONENTS: Jim Carlson of the Missoula County Health Department, stated they have had several instances of ground water problems, as well as sewer problems, which have cost a lot of money to fix. He mentioned one system in E. Missoula where an individual's basement was filled with sewage. He stated the part of the bill that raises the fine from $50 to $500 would remain in the local justice court. They do not feel very strongly about it and in many instances it would be easier to pay the fine than comply with local ordinances.

Al Sampson of Missoula, passed out a copy of a report from the Missoula County Health Department (Exhibit 1) which said the department's laboratory had tested 2,502 water samples, the highest number ever. The number of contaminated samples appeared to be on the rise.

Will Selser, representing the Lewis and Clark Health Department, stated they are seeing increasing numbers of multi-family sewer systems that are big enough to have problems. No one is really in charge of maintaining these systems. Several years ago Montana adopted ways of taking care of them and at that time the Health Deaprtment said they did not have enough personnel to take care of the problems. They have little or no authority

Rep. Gilbert asked Mr. Gebhardt if there is a barrier, the city cannot annex, and Mr. Gebhardt replied no. Rep. Gilbert then asked if he was not concerned about the barriers, to which Mr. Gebhardt replied that he is concerned, and they are looking at the package proposal of the League of Cities and Towns.

Rep. Bergene closed her presentation of HB 385.

The committee then went into executive session for action on bills. However, due to the power being off earlier, the Chairman stated that they would only have 15 minutes of daylight in which to work so they would probably not be able to take action on all bills.

DISPOSITION OF HOUSE BILL NO. 580: Rep. Sales moved to DO PASS HB 580, seconded by Rep. Brown, who also pointed out this was up to 1 mill. Question being called, Rep. Sales' motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 519: Rep. Kadas moved that HB 519 DO PASS, seconded by Rep. Brown. The motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 517: Rep. Hansen moved that HB 517 DO PASS, seconded by Rep. Kadas. Rep. Sales moved to AMEND by inserting "deposit fund in the county trust fund". Rep. Sands asked what the district fund is and Lee Heiman said it is the 6 mills established. Rep. Switzer asked if there is some lack of statutes and is this just a means of raising a $5 fee without putting a border on locating authority, or are they, for some reason, prevented from raising at this time. He was told that all court fees are set. The motion to amend PASSED UNANIMOUSLY.

Rep. Sales then moved the second amendment to change the fee from $5 to $2, seconded by Rep. Sands. Rep. Hansen said she wanted to address the second amendment and spoke in opposition to it. In one county they have to hire one person to handle only those payments. The question being called for, Rep. Sales' motion CARRIED UNANIMOUSLY.

Rep. Sales then moved that HB 517 DO PASS AS AMENDED, seconded by Rep. Fritz. Motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 673: Rep. Kadas moved that HB 673 DO PASS, seconded by Rep. Brown. Rep. Fritz moved to amend 30 days to 10 working days, seconded by Rep. Kadas. Question being called, motion PASSED UNANIMOUSLY. Rep. Brown then moved that HB 673 DO PASS AS AMENDED, seconded by Rep. Wallin. Rep. Brown's motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 414: Rep. Brown moved that HB 414 DO PASS, seconded by Rep. Kadas. Rep. Brown then moved the

CS-31

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 12, 1985

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓ late		
Ray Brandewie	✓		
Dave Brown	✓ late		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓		
Les Kitselman	✓		
Paul Pistoria	✓		
Bing Poff	✓		
Walter Sales	✓		
Jack Sands	✓		
Dean Switzer	✓		

Please attach to minutes.

11

Exhibit 1
HB 517
2-12-85
Rep. Hansen

MONTANA
ASSOCIATION OF
COUNTIES

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

HOUSE BILL 517

CHILD SUPPORT HANDLING FEE

HOUSE LOCAL GOVERNMENT COMMITTEE

FEBRUARY 12, 1985

COUNTY	# OF MONTHLY SUPPORT PAYMENTS (ESTIMATE)
BLAINE	11
CASCADE	750
DANIELS	20
DAWSON	30
GALLATIN	350
JEFFERSON	40
MADISON	30
MISSOULA	800
PHILLIPS	15
ROSEBUD	125
SHERIDAN	20
STILLWATER	25
TREASURE	1
YELLOWSTONE	375
LEWIS AND CLARK	509

Exhibit 2
HB 517
2-12-85
Rep. Hansen

MONTANA ASSOCIATION OF COUNTIES

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

TO: Paula Darko
Chair, House Local Government Committee

FROM: Gordon Morris
Executive Director

RE: House Bill 517

DATE: February 11, 1985

The Montana Association of Counties wishes to suggest an amendment to HB 517 by adding the following to line 24:

general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid into such fund.

GM/mrp

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 517 DATE Feb. 12, 1985

SPONSOR Rep. Stella Jean Hansen

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Julie Hacker	DR. Bozeman		✓
[illegible]	Missoula		✓
Vera Cahalan	Bonner		✓
David L. Fox Jr.	MISSOULA		✓
Rela G Fox	missoula		✓
D. Morris	MACo	✓	
Howard Schwartz	Missoula	✓	
Greg Jackson	Urban Coalition	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

February 12, 1985

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 517

FIRST WHITE reading copy (color)

DISTRICT COURT CLERK MAY CHARGE $5 CHILD SUPPORT HANDLING FEE.

Respectfully report as follows: That HOUSE 517 Bill No.

BE AMENDED AS FOLLOWS:

1. Title, line 5.
Strike: "$5"
Insert: "$2"

2. Page 1, line 21.
Strike: "$5"
Insert: "$2"

3. Page 1, line 24.
Following: "fund"
Insert: "unless the county has a district court fund. If the county has a district court fund, the amount must be paid into such fund"

AND AS AMENDED,
DO PASS

PAULA DARKO, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

15

HOUSE BILL NO. 517

INTRODUCED BY HANSEN, KEENAN,

KADAS, J. BROWN, SPAETH, DARKO

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CLERK OF THE DISTRICT COURT TO CHARGE A ~~$5~~ $2 HANDLING FEE FOR EACH CHILD SUPPORT PAYMENT PROCESSED; AMENDING SECTIONS 40-4-206 AND 40-5-125, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-206, MCA, is amended to read:

"40-4-206. Payment of maintenance or support to court -- handling fee of clerk. (1) Upon its own motion or upon motion of either party, the court may order at any time that maintenance or support payments be made to the clerk of the district court as trustee for remittance to the person entitled to receive the payments.

(2) The clerk of the district court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order. The clerk may charge the payor a handling fee of ~~$5~~ $2 a payment, which must be in addition to the payment. Any handling fee collected by the clerk under this subsection must be paid into the county general fund UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT MUST BE PAID INTO SUCH FUND.

(3) The parties affected by the order shall inform the clerk of the district court of any change of address or of other condition that may affect the administration of the order."

Section 2. Section 40-5-125, MCA, is amended to read:

"40-5-125. Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this part shall require that payments be made to the clerk of the court of the responding state. The clerk may charge a handling fee in accordance with 40-4-206. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the

THIRD READING

court first issuing the order."

-End-

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 19, 1985

The fifty-second meeting of the Senate Judiciary Committee was called to order at 10:07 a.m. on March 19, 1985, by Chairman Joe Mazurek in Rooms 413-415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 613: Representative Tom Hannah, sponsor of HB 613, testified this bill was caused by a recent supreme court decision that took the balanced budget amendment off the November ballot. The timing of that event concerned him. He feels the legislature should address that so we can deal with the initiative process in a timely manner. This bill says any ruling needs to happen within a certain timeframe. or after the election. It created real havoc because ballots had to be reprinted and absentee ballots were late. The bill deals with just the certification of printing.

PROPONENTS: Larry Akey, Chief Deputy to the Secretary of State, testified this bill was requested by his office. This gives local election officers a green light to proceed with the election process at the time the ballot is certified. What we are trying to do is give the local election officers a green light to proceed with printing and distribution of voter distribution pamphlets. It does not prohibit anyone from challenging a ballot issue in the courts. It is certified between mid-July and mid-September. It does not prohibit the court from hearing a challenge after ballot certification. What they are asking is that there be some balance of the administration process with the citizens' right to challenge that process in court. Would HB 613 stand up to a constitutional test? What our system of government has is a system of checks and balances. The check the court has on the legislature is to declare laws unconstitutional. The check the legislature has is declaring jurisdictional limits. Mark Mackin, on behalf of the Citizens Legislative Coalition, testified this bill would require them to bring any challenges within a timely manner.

OPPONENTS: Robert Anderson, lobbyist from Montana Common Cause, presented written testimony in opposition to the bill (Exhibit 1). Don Judge, representing Montana State AFL-CIO, opposed the bill because it is improper to limit the court to applying improper remedies. He had a question about the way the bill was drafted. What if a ballot issue is an issue that is not clear to the voters? There has been a certification

testified this bill arose out of a situation where a volunteer fire department responded to a call and found out the home was not owned by a member of the district. They reeled in their hoses and let the home burn in order to protect themselves. These people fighting the fires are volunteers and they don't get paid. The agreement is they only fight those fires for members who belong.

PROPONENTS: Lyle Nagel, representing the Montana State Volunteer Firemen's Association, testified a lot of firemen wear two hats. They are also emergency medical personnel. If they respond as EMTs, they are covered, but if they respond as a volunteer fireman, they are not. They support this bill (see witness sheet attached as Exhibit 2).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 713 was closed.

ACTION ON HB 713: Senator Brown moved HB 713 be recommended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 517: Representative Stella Jean Hansen, sponsor of HB 517, testified this is a simple bill that allows for a charge in addition to a payment a payor makes when they pay a support payment. What that does is just cover the costs of the handling fee. They ask that it be paid in addition to the payment so it does not come out of the money the person gets. There are many counties who hire someone full time to handle these support payments. It does cost time and money.

PROPONENTS: Clara Gilreath, Lewis and Clark County Clerk of Court, testified she is in favor of the bill, but $2 is not enough. In her county, a real conservative estimate of costs for handling this is $20,000 a year. If they got $2 a payment, they would get back $12,000. If they received $3 per payment, it would get them back $18,000, which would be closer to the actual expenses. She felt $3 would be a better figure than $2. Gordon Morris, representing the Montana Association of Counties, testified these are administrative duties performed by the clerk of court on a routine basis. He conducted a survey to determine how many child support payments are processed each month by the counties. The results of his survey are attached as Exhibit 3. He does not think it is unreasonable to suppose the non-custodial parent could be assessed the processing costs. It was not intended the property tax would continue to subsidize the distribution of child support payments. The

non-custodial parent submits cash. The clerk gives a receipt. She puts that in her books. She writes a warrant. They put that into an envelope and mail it to the custodial parent. Washington charges $5 and Idaho charges $7.50.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked if what we are really talking about is it must be paid in addition to the payment. Representative Hansen responded yes, that was the idea. Senator Towe stated the information on Exhibit 3 indicates Lewis and Clark County is keeping track of 509 payments. He asked why that costs $20,000. Mrs. Gilreath stated a full-time person handles this. For each payment and disbursement, a real conservative estimate shows it costs 60¢ for each payment and disbursement. There are balance sheets and bookkeeping duties and making the deposits. Her figure of $20,000 includes one person plus the supplies and the cost of postage. That figure does not include the cost of the check protector or its maintenance. Senator Shaw asked why so many go through the clerk of court. Mrs. Gilreath replied the judge orders this. Senator Mazurek asked how the bulk of the payments came to their office--through the mail or personally. Mrs. Gilreath replied half and half. Senator Mazurek asked how they proposed to handle this. What if someone refuses to pay it? Would they send out a notice? Mrs. Gilreath responded it wouldn't be retroactive. It would only be for court orders signed after the bill went into effect. Senator Mazurek asked if it were their intention no existing child support payment would be affected. Representative Hansen replied yes. Senator Towe asked how they would handle the situation where the payment came in and the fee weren't there. Mrs. Gilreath responded notice would have to go out to all of the people who do pay, then if they submit it without the fee, they would reject it. Senator Towe asked what they did now. Mrs. Gilreath replied they accept it. Senator Towe asked what their intention was if the payment were $2 short. Would the clerk take the first $2 and send the balance to the individual or should it be the other way around? Representative Hansen replied it was their intent that the recipient not have to pay any of it. Those cases would have to be handled at the discretion of the clerk unless the committee wanted to write it into the bill. Mrs. Gilreath replied they wouldn't want to take money out of the mouths of babes. Representative Hansen stated she wouldn't have a problem with an enforcement procedure, but they had not envisioned what that would be.

CLOSING STATEMENT: Representative Hansen encouraged the committee to pass the bill with at least the $2 or a higher figure.

Hearing on HB 517 was closed.

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 03/1985

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

MONTANA
ASSOCIATION OF
COUNTIES

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

HOUSE BILL 517

CHILD SUPPORT HANDLING FEE

SENATE JUDICIARY COMMITTEE

March 19, 1985

COUNTY	# OF MONTHLY SUPPORT PAYMENTS (ESTIMATE)
BLAINE	11
CASCADE	750
DANIELS	20
DAWSON	30
GALLATIN	350
JEFFERSON	40
MADISON	30
MISSOULA	800
PHILLIPS	15
ROSEBUD	125
SHERIDAN	20
STILLWATER	25
TREASURE	1
YELLOWSTONE	375
LEWIS AND CLARK	509

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 031985
BILL NO. HB517

DATE

COMMITTEE ON Judiciary Mar 19, 1985

VISITORS' REGISTER HB 426, 517, 613, 713, 714, 846

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Mike Young	State of Montana	714	X	
Clara Schmidt	Clerk District Court	517	V	
L. Morris	MACO	517	X	
[illegible]	Common Cause	613		X
OPAL WINEBRENNER	Public Service Com.	HB426	✓	
Carla Gray	MPC	HB426	✓	
Mark Mackin	Citizens Legislative Coalition	HB 613	✓	
Ronald J. Louse	Dept of Nat. Res. & Cons	H.B 846	X	
Don Judge	MT STATE AFL-CIO	613		X
Kyle Wood	MT State Vol Firemens Assn	713	X	
EVE PHILLIPS	P. P & L	HB 426	X	
Chip Erdmann	MT Sch Bd Assn	HB 714	X	
LARRY AKEY	SECRETARY OF STATE	HB 613	X	

(Please leave prepared statement with Secretary)

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 23, 1985

The fifty-seventh meeting of the Senate Judiciary Committee was called to order at 12:09 p.m. on March 23, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Jim Shaw who was excused.

Chairman Mazurek announced that although Senator Shaw was absent, he had left voting instructions and his proxy with Senator Galt.

ACTION ON HB 419: Senator Daniels moved HB 419 be recommended BE CONCURRED IN. The motion carried unanimously.

ACTION ON HB 187: Senator Towe asked what kind of violation we were talking about. Senator Mazurek responded discharge and public water supply problems. Senator Towe moved HB 187 be amended (refer to standing committee report for text of amendments). His reason for that is when you are talking about a public water act, the people accused may go to New York and hire a $100,000 consultant to come and testify. Senator Mazurek questioned whether or not it should be made reciprocal. The motion to amend carried unanimously. Senator Towe moved HB 187 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 95: Proposed amendments from the Montana Trial Lawyers Association were distributed to the committee (Exhibit 1). Senator Towe stated there are some cases where you don't want to try them separate. Karl Englund, of the Montana Trial Lawyers Association, stated the testimony dealt with third party claims. The amendments submitted say the cases cannot be tried together. In the third party situation, it couldn't be tried together, but in the first party case, it is up to the judge. But even in the third party case, if everyone agrees, they can be tried together. Glen Drake, representing the American Insurance Association, stated his amendment asked that the bill be returned partially to its original form and would apply only to third party claims. He thinks that is what Mr. Englund is also doing. You have a problem with the terrible increase in attorneys' fees that are incurred in a bad faith action. It is just used as a means to increase pressure. Mr. Englund stated Mr. Drake's amendment says you cannot even file the other case until the one is settled. They would resist that in the

notion of complete duplication of effort. Senator Mazurek asked them to respond to the fact you force the defense into the position of having two sets of attorneys. Mike Meloy responded this bill won't change that. Senator Towe stated Mr. Drake's amendment doesn't allow for the commencement of a claim where there is not a third party. Mr. Petesch commented it provides you cannot commence an action in a third party claim, so it only applies to third party claims and not the first party claim. Senator Blaylock stated as long as we are going to separate them at trial, why do they object that we sue them at the same time. Senator Towe stated it is a plaintiff versus defendant issue. On the defense side, settlement of the pending bad faith action would be used as leverage for a higher settlement. Senator Towe moved adoption of the amendments on Exhibit 1. Mr. Petesch stated the other thing those amendments do is strike section 2 on accrual because you are allowed to file it at the same time. Senator Towe asked why they struck the codification section. Mr. Englund replied that was a mistake. Senator Mazurek pointed out that also eliminates the effective date. Senator Towe agreed with that. Senator Crippen moved as a substitute motion that Mr. Drake's amendments be adopted. Mr. Petesch stated they provide you cannot commence an action against the third party claim until the underlying claim is settled. The motion failed with Senators Brown, Crippen. Galt, and Shaw voting in favor. The committee then reverted to the motion to adopt the Montana Trial Lawyers' Association amendments. The motion carried with Senators Brown, Crippen, Galt, and Shaw voting in opposition. Senator Towe moved HB 95 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senators Crippen. Galt, Pinsoneault, and Shaw voting in opposition.

ACTION ON HB 517: Mr. Petesch explained the concern was when the payment comes in and it doesn't have the extra $2, what should the clerk do. Senator Pinsoneault commented this will not have any retroactive application. If its in the decree, then he will pay it. Senator Towe suggested putting an applicability date on it. Mr. Petesch stated the way the bill is written, it doesn't have to be in the decree. It is just like any other handling fee the clerk has now. Senator Towe asked if it would be on the obligor. Mr. Petesch responded line 22 says the payor. It is discretionary with the clerk as written. Senator Towe moved HB 517 be amended as follows:

1. Title, line 8.
Following: "MCA"
Insert: ", AND PROVIDING AN APPLICABILITY DATE"

2. Page 3.
Following: line 1
Insert: "NEW SECTION. Section 3. Applicability. This act shall apply to all court decrees and court orders after the effective date of this act."

The motion carried unanimously. Senator Towe moved HB 517 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 613: Mr. Petesch stated he looked into separation of powers in this bill. The legislature is on safe grounds in providing what grounds are at issue. The court doesn't tell the Secretary of State to change the ballot. It enjoins it and then the Secretary of State decides what to do. Senator Pinsoneault moved HB 613 be recommended BE NOT CONCURRED IN. Senator Crippen stated he realizes we are 90-day wonders while we are here. Even though we figure the court may not go along with what we do, we should not walk away from a bill because of that argument. If we feel it is a good bill, we should go on record and say so; if no, kill it. Senator Towe agreed. He stated he thinks there is a problem that the Secretary of State and the clerks of court have. This may add enough strength to the problem that the courts will leave their hands off. Senator Brown stated it might just hurt one little bit. Maybe it's in the public's interest to find one of these things shouldn't go on the ballot. What purpose is served by putting a statute on the books they can get around? Senator Towe responded the courts are reluctant to interfere. A statute may firm that up. He thinks it is wise we express our opinion on the matter. Senator Daniels stated he thinks it has some political ramifications. He thinks the court will do effectively the same thing it did regardless of this. We shouldn't enact a law that says "no court shall order a change." That is beyond our discretion. Senator Towe commented they do that in injunctions. The motion carried with Senators Crippen, Galt, Shaw, and Towe voting in opposition.

ACTION ON HB 714: Mr. Petesch stated what the testimony presented is an attempt to clarify that you are referring to each claim and not each claimant. Senator Towe moved HB 714 be recommended BE CONCURRED IN. Senator Daniels stated he thinks again we have set the limit on how much you can sue the state of Montana for. You are just limiting them more than you intend to limit. Senator Towe commented on that situation, this is injury or death to a single person. If you have injury to both the husband and wife, you have it doubled anyway. Senator Daniels responded he did not read it as the single person being the unmarried person. Mr. Petesch pointed out there is the qualifier on the end of that release of the number of persons or entities claiming damages thereby are considered one claim. Karl Englund, of the Montana Trial Lawyers Association, stated he understands the idea was that an injury to one person the $300,000 limit applied irrespective of how many people may have injuries as a result of the injury to that one person. The limit applies to the hospitalization, wrongful death, and survivorship action. The way the statute reads now is each person who could have injuries as a result of the injury to that single person could have

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 032385

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw			X
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

SENATE

STANDING COMMITTEE REPORT

March 23 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 517

third reading copy (blue color)

(Senator Hansen)

DISTRICT COURT CLERK MAY CHARGE $5 CHILD SUPPORT HANDLING FEE

Respectfully report as follows: That HOUSE BILL No. 517

be amended as follows:

1. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 3.
Following: line 1
Insert: "NEW SECTION. Section 3. Applicability. This act shall apply to all court decrees and court orders after the effective date of this act."

AND AS AMENDED

BE CONCURRED IN

[redacted]

[redacted]

Senator Joe Mazurek Chairman.

28

HOUSE BILL NO. 517

INTRODUCED BY HANSEN, KEENAN,

KADAS, J. BROWN, SPAETH, DARKO

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CLERK OF THE DISTRICT COURT TO CHARGE A ~~$5~~ $2 HANDLING FEE FOR EACH CHILD SUPPORT PAYMENT PROCESSED; AMENDING SECTIONS 40-4-206 AND 40-5-125, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-206, MCA, is amended to read:

"40-4-206. Payment of maintenance or support to court -- handling fee of clerk. (1) Upon its own motion or upon motion of either party, the court may order at any time that maintenance or support payments be made to the clerk of the district court as trustee for remittance to the person entitled to receive the payments.

(2) The clerk of the district court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order. The clerk may charge the payor a handling fee of ~~$5~~ $2 a payment, which must be in addition to the payment. Any handling fee collected by the clerk under this subsection must be paid into the county general fund UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT MUST BE PAID INTO SUCH FUND.

(3) The parties affected by the order shall inform the clerk of the district court of any change of address or of other condition that may affect the administration of the order."

Section 2. Section 40-5-125, MCA, is amended to read:

"40-5-125. Order of support. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this part shall require that payments be made to the clerk of the court of the responding state. The clerk may charge a handling fee in accordance with 40-4-206. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the

REFERENCE BILL

court first issuing the order."

NEW SECTION. SECTION 3. APPLICABILITY. THIS ACT SHALL APPLY TO ALL COURT DECREES AND COURT ORDERS AFTER THE EFFECTIVE DATE OF THIS ACT.

-End-